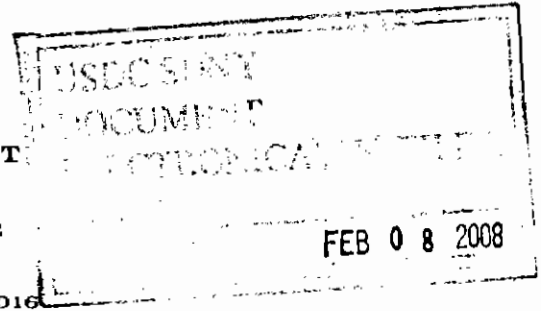


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February 7, 2008

VIA FACSIMILE
(212) 805-0426

Hon. Laura T. Swain
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 755
New York, NY 10007

MEMO ENCLOSED

Re: *Aedes De Venustas, Inc. v. Venustas International, LLC*
S.D.N.Y. Case No. 07 cv 4530 (LTS) (THK)

Your Honor:

I represent the plaintiff, Aedes De Venustas in the above action. I write today to bring to the Court's attention several items that have arisen and to propose a resolution of those items.

On January 25, 2008, the Defendant moved for partial summary judgment pursuant to Fed.R.Civ.P. 56 on the issue of whether the Plaintiff is entitled to an award of Defendant's profits. According to Local Civil Rules 6.1 and 6.4, Plaintiff's papers in opposition to that motion are due on Monday, February 11, 2008.

However, on January 30, 2008, the Plaintiff served a subpoena *duces tecum* on Allen Silk, Esq., the attorney with whom the Defendant's principal allegedly consulted on the choice of the Defendant's name. That subpoena seeks documents and testimony concerning what advice, if any, was given to the Defendant concerning the use of the name "Venustas International." The Plaintiff believes that such information could be material to the Defendant's motion for partial summary judgment. That subpoena is returnable on February 15, 2008.

On January 29, prior to serving the subpoena on Mr. Silk, I served by email a Notice of Non-Party Subpoena upon Defendant's counsel, Robert Shepherd, Esq., as required by Fed.R.Civ.P. 45(b)(1). Mr. Shepherd has informed me that the Defendant objects to the subpoena on the grounds that the Court has already ruled that the Defendant acted in good faith when choosing its own mark and intends to move either to quash the subpoena or for a protective order.

Hon. Laura T. Swain

January 18, 2008
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Mr. Shepherd and I have conferred and we both agree that the question as to the propriety of the subpoena served on Mr. Silk should be presented to and resolved by the Court prior to the completion of the briefing on the Defendant's motion for partial summary judgment. I have agreed to adjourn the deposition of Mr. Silk *sine die* until the Court rules on Defendant's motion to quash or for a protective order. We further agree that, should the Court allow the deposition of Mr. Silk to go forward, Plaintiff's papers in opposition to Defendant's motion for partial summary judgment would not be due until after that deposition is concluded so that Mr. Silk's testimony could be presented as part of the opposition.

We therefore ask that the Court enter a Memorandum Endorsement approving of the proposed schedule set forth above.

Thank you in advance for your consideration.

Respectfully submitted,



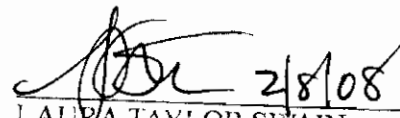
Joseph M. Heppt

JMH/wrk

cc: Hon. Theodore Katz (via fax)
Robert Shepherd, Esq. (via fax)

The request is granted.

SO ORDERED.



LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE